SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
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June 13, 1996

James L. Rowe
149 S. Poplar
Wichita, KS 67211

RE: CU-397 Conditional Use to allow outdoor expansion of nightclub located at the southeast corner of Mt. Vernon and Spruce (2301 E. Mt. Vernon)

Dear Mr. Rowe:

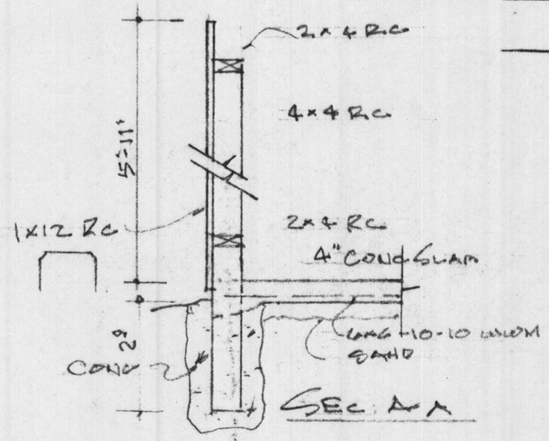
At its regular meeting on May 30, 1996, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to DENY the request.

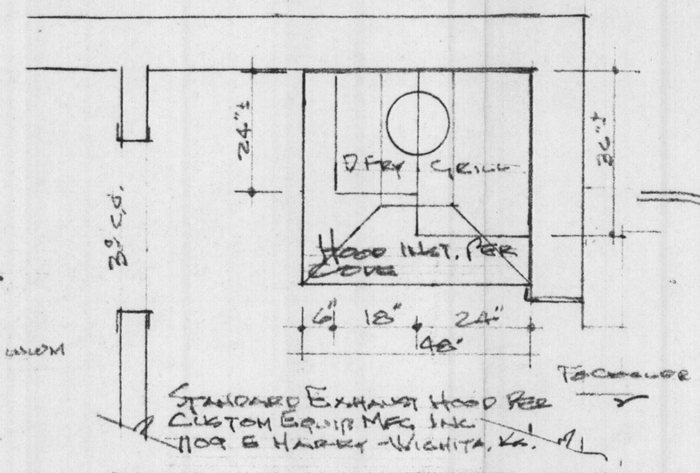
This action was not appealed by the applicant before June 13, 1996, therefore, the action of the Planning Commission is FINAL. If you have any questions concerning this case, please contact our office.

Sincerely,

Russ Ewy
Associate Planner

cc: Ted Maisch, Jr.; 1940 S. Oliver; Wichita, KS 67218
Medell F. Butler; 251 N. Armour; Wichita, KS 67206
Ray York; 8651 S. West; Wichita, KS 67233
Pat Rutter; 2040 S. Spruce; Wichita, KS 67211
Leane Cloud; 2009 S. Grove; Wichita, KS 67211
Office of Central Inspection





MT VERNON CT

EXIST. 30' DRIVE

EXIST. 4' SIDEWALK

150'-0"

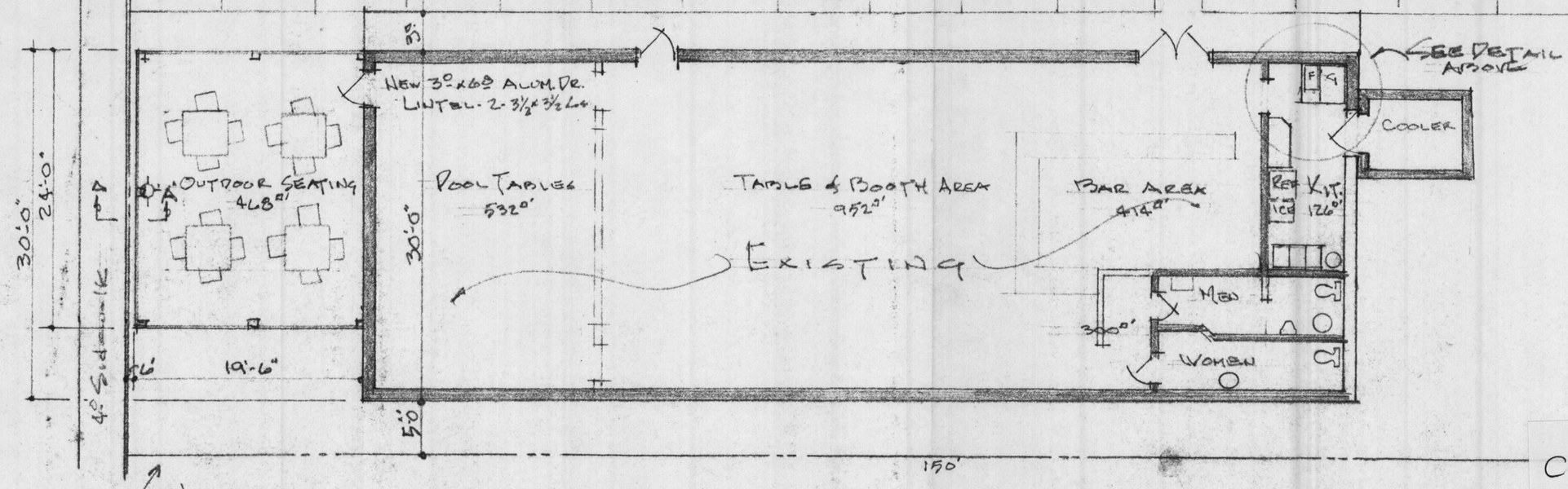
EXIST. PAVED PARKING LOT

EXIST DR.

24'-0"

18 PARKING SP @ 8'+

SPRUCE ST



CU. 397
BOBBY GORDON

HOURS
NO BRIGHT LTS
NO MUSIC OUTLET

N

SITE & REVISED FLOOR PLAN

1/8" = 1'-0"

LEGAL:
LOTS 5-7 BLK 13
WOODLANDS ADDT.

AN ADDITION OF OUTDOOR SEATING
TO THE BLUES CLUB-
2301 E MT VERNON - WICHITA, KS
OWNER - JAMES L ROWE (2656845-6880856)

Sam L. Mobley ARCHITECT
251 SOUTH HOOD WICHITA, KANSAS 67211
AC 316 686-6666

REGISTERED ARCHITECT
SAM L. MOBLEY
1457
STATE OF KANSAS

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. ____

STAFF REPORT

May 30, 1996

CASE NUMBER:	CU-397
APPLICANT/AGENT:	Ted Maisch, Jr. (property owner) & James L. Rowe (agent)
REQUEST:	Conditional Use to allow outdoor expansion of nightclub
CURRENT ZONING:	'LC' Limited Commercial
SITE SIZE:	0.29 acres
LOCATION:	SE corner of Mt. Vernon and Spruce (2301 E. Mt. Vernon)

BACKGROUND: The applicant requests a Conditional Use to allow outdoor expansion of a nonconforming nightclub for a 0.29 acre site generally located at the southeast corner of Mt. Vernon and Spruce on property zoned 'LC' Limited Commercial. Approval of this Conditional Use does not bring the existing nightclub into conformance. In addition, a denial of the request would still allow the nightclub to continue operating as a nonconforming use.

The applicant is wanting to provide an outdoor seating area to the west of the City Blues Nightclub. This site is adjacent to residential development to the south, thereby creating the need to obtain a Conditional Use. This outdoor area would have a maximum seating capacity of 16 occupants and be required to screen the area from view. The Unified Zoning Code allows up to 16 outdoor occupants without any additional parking. Additional design restrictions includes lighting and outdoor sound system restrictions.

The property to the north, east, and west of the application area has various commercial uses, while the area behind these businesses is residential. The applicant's property is bordered to the east by a automotive repair shop, vacant land and I-135 to the west, and an extermination business across Mt. Vernon to the north. Immediately behind the nightclub along Spruce is single-family homes.

The site plan show a 468 square foot (24 feet by 19.5 feet) fenced outdoor area with seating for 16 persons. Access to the outdoor area would be through a door located towards the front of the nightclub. The outdoor seating area is shown to be 11 feet from the rear property line, while the nightclub is 5 feet from the property line. There is a wood fence, built by the owner of the property immediately to the south of the nightclub, along the property line, for screening.

The nightclub has 18 off-street parking spaces, and patrons have used on-street parking along Spruce and elsewhere in the area. This situation has reportedly caused conflict between patrons of the nightclub and the residents in the area. Police calls for such violations as assault, disturbing the peace, burglary, larceny, parking violations, and vandalism show a concentration of calls to the nightclub and along Spruce. These types of calls decrease several blocks from the site.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	'B'	Extermination Business
SOUTH:	'TF-3'	Single-Family Residences
EAST:	'LC'	Automotive Service Station
WEST:	'SF-6'	Vacant

PUBLIC SERVICES: Municipal water and sewer service is available to this site. The application area has access to Mt. Vernon and Spruce. Traffic volume on Mt. Vernon for the area is well below capacity (8,250 average daily trips) and is projected to decline (6,310 average daily trips).

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area for low density residential uses. Low density residential provides for the lowest density of urban residential land uses and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches, and similar uses found in such areas.

The Comprehensive Plan also addresses the need to reduce or prevent the detrimental impacts of land uses which produce excessive odors, noise, or safety hazards upon residential areas. Additional locational guidelines found in the plan states that commercial development should have a site design that limits noise, lighting, and other activity in order to avoid adversely impacting surrounding residential areas. The expansion of this nightclub to provide an outdoor seating area, with its close proximity to neighboring residences, would not be in compliance with these policies.

The approval of this request would also be in conflict with the plan's policies of strengthening established neighborhoods by providing safe, decent, and affordable conditions for all residents. These objectives specifically address the protection of older neighborhoods from the encroachment of inappropriate development of a more intensive nature.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. However, if the Planning Commissions and/or the City Council feel that the request is appropriate and is approved, planning staff recommends that any approval of a Conditional Use be subject to the following conditions:

A. The maximum capacity for the outdoor expansion shall be 16 occupants.

B. No noise generated in conjunction with the outdoor use shall exceed a sound level of 5 decibels as measured on the 'A' scale of a sound pressure level meter over the normal background noise that is discernible at any property line of a lot within 1,000 feet that has a residential zoning classification. Normal background noise shall be established by taking the average of ten sound level readings in any ten-minute period.

C. The outdoor area shall be screened from ground-level view by a 6 to 8 foot wall that shall be constructed of standard building materials customarily used for

wall and fence construction such as brick, stone, concrete masonry, stucco, concrete, or wood.

D. Outdoor lighting sources shall employ cutoff luminaries and shall be mounted at a height not exceeding one-half the distance from the neighboring lot, unless evidence is provided to the satisfaction of the Zoning Administrator that the light source will be aimed or shielded from the neighboring lot such that light trespass and glare are minimized.

E. The outdoor use shall be designed and maintained in compliance with all other licenses, regulations and requirements of the fire, health, and building codes, including requirements for emergency access to or from any barriers that limit ingress or egress.

F. No additional expansion of the indoor, or outdoor, use shall be permitted without a new Conditional Use being approved.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area along Mt. Vernon has various commercial uses, while the area behind these businesses are residential. The applicant's property is bordered to the east by a automotive repair shop and by vacant land and I-135 to the west. However, immediately behind the nightclub along Spruce is single-family residential development.

   The nightclub's outdoor seating area would be out of character with the neighborhood to the south. Although located along Mt. Vernon with other high intensity uses, this expansion will be built in close proximity to the residential uses to the south.

2. Extent to which removal of the restrictions will detrimentally affect nearby property: The allowance of that use to be located outside the establishment during the hours of operation kept by the establishment would have a detrimental impact on the surrounding property by creating additional noise from the nightclub's patrons, as well as worsening the existing parking problems.

3. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: A denial of the applicant's request would prevent the ability to accommodate 16 additional patrons, but would not prevent his ability to continue his existing operation as a nonconforming use.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Comprehensive Plan addresses the need to reduce or prevent the detrimental impacts of land uses which produce excessive odors, noise, or safety hazards upon residential areas. Additional locational guidelines found in the plan states that commercial development should have a site design that limits noise, lighting, and other activity in order to avoid adversely impacting surrounding residential areas. The expansion of this nightclub to provide an outdoor seating area, with its close proximity to neighboring residences, would not be in compliance with these policies.

   The approval of this request would also be in conflict with the plan's polices of strengthening established neighborhoods by providing safe, decent, and affordable conditions for all residents. These objectives specifically address the protection of older neighborhoods from the encroachment of inappropriate development of a more intensive nature.

5. Impact of the proposed development on community facilities: Municipal water and sewer service is available to this site. The application area has access to Mt. Vernon and Spruce. Traffic volume on Mt. Vernon for the area is well below capacity (8,250 average daily trips) and is projected to decline (6,310 average daily trips). The expansion of this nightclub should not have an appreciable impact on traffic in the area. The location of the outdoor seating area will not displace off-street parking, although it is likely to result in additional on-street parking in the neighborhood.